IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1616 OF 2007

Bhila Daga Gangurde ..Petitioner

Vs.

Sau. Ranjana Bhila Gangurde and ors. ..Respondents

Mr. D.S. Joshi i/by Mr. I.R. Kulkarni for petitioner.
Mr. Y.S. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2007.

P.C.:

1. Leave to convert the application into a writ petition. Amendment be carried out forthwith.

2. The respondent-wife had filed Misc.Criminal Application No. 233 of 2001 under Section 125 (1) of Cr.P.C. and claimed maintenance for herself and two of her minor children (one son and one daughter). The learned JMFC, 4th Court at Malegaon passed Judgement and Order dated 27/7/2005 held that the wife could not claim maintenance as some alternative arrangement was made for her maintenance by the husband. However, the

claim for maintenance for the minor daughter i.e. applicant no.3 was allowed and the amount came to be fixed at Rs.1300/- per month. The petitioner-husband challenged the order passed by the learned Magistrate in Criminal Revision Application No. 142 of 2005 and the same has been dismissed by the learned Ad-hoc Addl. Sessions Judge-2, Malegaon at Nasik along with revision application filed by the applicant no.1-wife, by his common Judgment and Order dated 28/9/2006.

3. Before both the courts below it was contended by the petitioner-husband that he was ready and willing to take the custody of the minor daughter and the wife was not permitted to do so and, therefore, the daughter could not have been allowed to claim maintenance. The courts have noted that the applicant no.3 was about 2 years age at the relevant time and she could be better looked after by her mother, however, the mother did not have an adequate source of income to look after both the children and therefore, considering the needs of the growing minor daughter and her education etc. both the courts below thought it proper to fix the compensation amount at Rs.1300/-

per month. The reasoning set out by the courts below in support of this can neither be called as perverse nor it could be termed as grossly erroneous and, therefore, there is no case made out to cause interference in the impugned order under the supervisory jurisdiction of this court.

4. The petition is rejected summarily.

(B.H. Marlapalle,J.)